

MONTANA LEGISLATIVE HISTORY

Chapter 419 19 95

Bill H _____ S 347

Original bill & history ✓ C

H. Committee on Nat. Res.

Hearing Date(s) 3-20 ✓ C

3-21 ✓ C

_____ C

_____ C

Date Out _____ C

S. Committee on Nat. Res.

Hearing Date(s) 2-15 ✓ C

2-17 ✓ C

_____ C

_____ C

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

SENATE BILL NO. 347

INTRODUCED BY

Crismon *Beck* *Lumpkin* *HARP*
Moran *Mohr* *AKLESTAD*

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF STATE LANDS TO NEGOTIATE RECIPROCAL ACCESS TO FACILITATE THE MANAGEMENT OF ISOLATED STATE FOREST LANDS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Management of isolated forest lands -- reciprocal access. To facilitate the management of isolated tracts of classified forest lands, the department may negotiate reciprocal access agreements, which may include easements. In granting reciprocal access, the department is not required to analyze or consider the potential impacts of activities that may occur on private or federal lands in conjunction with or as a result of granting reciprocal access.

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 77, chapter 5, and the provisions of Title 77, chapter 5, apply to [section 1].

-END-

2/21	2ND READING PASSED	50	0
2/22	3RD READING PASSED	48	2
	TRANSMITTED TO HOUSE		
2/27	FIRST READING		
2/27	REFERRED TO NATURAL RESOURCES		
3/20	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/25	2ND READING CONCURRED AS AMENDED	95	0
3/28	3RD READING CONCURRED	85	10
	RETURNED TO SENATE WITH AMENDMENTS		
4/03	2ND READING AMENDMENTS NOT CONCURRED	46	0
4/04	CONFERENCE COMMITTEE APPOINTED		
4/07	HEARING		
4/07	CONFERENCE COMMITTEE DISSOLVED		
	HOUSE		
4/05	CONFERENCE COMMITTEE APPOINTED		
4/07	CONFERENCE COMMITTEE DISSOLVED		
	SENATE		
4/07	FREE CONFERENCE COMMITTEE APPOINTED		
4/10	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/11	2ND READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	47	0
4/12	3RD READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	49	0
	HOUSE		
4/07	FREE CONFERENCE COMMITTEE APPOINTED		
4/10	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/11	2ND READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	97	2
4/12	3RD READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	88	9
4/13	SIGNED BY PRESIDENT		
4/13	SIGNED BY SPEAKER		
4/17	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 539		
	EFFECTIVE DATE: 04/27/95		

SB 347 INTRODUCED BY CRISMORE, ET AL.

AUTHORIZE DEPARTMENT OF STATE LANDS TO NEGOTIATE RECIPROCAL
ACCESS TO FACILITATE MANAGEMENT OF ISOLATED STATE FOREST
LANDS

2/10	INTRODUCED		
2/10	FIRST READING		
2/10	REFERRED TO NATURAL RESOURCES		
2/15	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	41	9
2/21	3RD READING PASSED	41	9
	TRANSMITTED TO HOUSE		
2/22	FIRST READING		
2/22	REFERRED TO NATURAL RESOURCES		
3/20	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/25	2ND READING CONCURRED	71	28
3/27	3RD READING CONCURRED	73	25

	RETURNED TO SENATE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	46	0
4/03	3RD READING AMENDMENTS CONCURRED	41	4
4/08	SIGNED BY PRESIDENT		
4/08	SIGNED BY SPEAKER		
4/10	TRANSMITTED TO GOVERNOR		
4/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 419		
	EFFECTIVE DATE: 10/01/95		

SB 348 INTRODUCED BY GROSFIELD, ET AL.

CAP LEVEL OF GROSS PAYROLL UPON WHICH THE WORKERS' COMPENSATION ADMINISTRATION FUND ASSESSMENT CAN BE MADE FOR PLAN NUMBER 1 EMPLOYERS

02/10	INTRODUCED		
2/10	FIRST READING		
2/10	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
2/11	FISCAL NOTE REQUESTED		
2/18	HEARING		
2/18	FISCAL NOTE RECEIVED		
2/18	FISCAL NOTE PRINTED		
2/20	TABLED IN COMMITTEE		
2/23	MISSSED TRANSMITTAL DEADLINE FOR 45TH DAY		
	DIED IN COMMITTEE		

SB 349 INTRODUCED BY FOSTER

REQUIRE SITE-SPECIFIC AMBIENT AIR QUALITY AND METEOROLOGICAL MONITORING AT COMMERCIAL HAZARDOUS WASTE INCINERATORS

2/10	INTRODUCED		
2/10	FIRST READING		
2/10	REFERRED TO NATURAL RESOURCES		
2/11	FISCAL NOTE REQUESTED		
2/15	HEARING		
2/17	FISCAL NOTE RECEIVED		
2/17	FISCAL NOTE PRINTED		
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	50	0
2/21	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/22	FIRST READING		
2/22	REFERRED TO NATURAL RESOURCES		
3/15	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/28	2ND READING CONCURRED	84	13
3/29	3RD READING CONCURRED	80	18
	RETURNED TO SENATE WITH AMENDMENTS		
4/04	2ND READING AMENDMENTS CONCURRED	49	0
4/05	3RD READING AMENDMENTS CONCURRED	50	0
4/08	SIGNED BY PRESIDENT		
4/10	SIGNED BY SPEAKER		
4/10	TRANSMITTED TO GOVERNOR		
4/14	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 498		
	EFFECTIVE DATE: 04/14/95		

SENATE NATURAL RESOURCES

Page 5

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ----- REREFERRED ---- DATE READ

SB0346	FORRESTER, GARY	2/10	2/13	TEMPORARY WATER TREATMENT STANDARDS - NATURAL CONDITION	PASS AS AMENDED	VOTE:	2/20
SB0347	CRISMORE, WILLIAM	2/10	2/15	BOARD OF LAND COMM'RS GRANT OF RECIPROCAL ACCESS RE STATE FOREST LANDS	PASS AS AMENDED	VOTE:	2/18
SB0349	FOSTER, MIKE	2/10	2/15	GENERALLY REVISE COMMERCIAL HAZARDOUS WASTE PERMIT REQUIREMENTS	PASS AS AMENDED	VOTE:	2/18
SB0362	TVEIT, LARRY	2/10	2/13	GROUND WATER PERMIT PROVISIONS -- EXEMPTIONS	PASS AS AMENDED	VOTE:	2/20
SB0365	COLE, MACK	2/10	2/17	AN ACT CHANGING CRITERIA FOR APPROVAL OF RECLAIMED VEGETATION	PASS AS AMENDED	VOTE:	2/18
SB0366	COLE, MACK	2/10	2/17	GENERALLY REVISE MONTANA MAJOR FACILITY SITING ACT	PASS AS AMENDED	VOTE:	3/15
SB0371	GROSFIELD, LORENTS	2/10	2/13	OUTSTANDING RESOURCE WATERS -- CRITERIA -- LIMITATIONS	PASS AS AMENDED	VOTE:	2/18
SB0373	FOSTER, MIKE	2/11	2/17	METAL MINE RECLAMATION -- BONDING CRITERIA	PASS AS AMENDED	VOTE:	2/18
SB0382	HARP, JOHN	2/13	2/17	REVISE CECRA, ALLOCATE RIT INTEREST, CREATE A VOLUNTARY CLEANUP PROG	PASS AS AMENDED	VOTE:	3/20
SB0386	DEVLIN, GERRY	2/13	2/15	EXEMPT CERTAIN NONCOMMERCIAL FARM AND RESIDENTIAL UNDERGROUND STORAGE TANKS	PASS AS AMENDED	VOTE:	2/18
SB0391	GROSFIELD, LORENTS	2/13	2/15	EMERGENCY GROUND WATER USE -- FISHERY RESOURCE BENEFITS	PASS AS AMENDED	VOTE:	2/20
SB0406	NELSON, LINDA	2/15	2/17	GRANTING CLOSURE FOR NON-COMMERCIAL 1,100 GALLONS OR LESS FOR UST	DO PASS	VOTE:	2/18

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on February 15, 1995, at 1:00 p.m..

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Jeff Weldon (D)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 344, SB 347, SB 349, SB 386, SB 391,
SJR 15

Executive Action: SB 225, SB 234, LC 1463 (Committee Bill)

EXECUTIVE ACTION ON SB 225

Motion/Vote: SEN. MACK COLE MOVED TO TAKE SB 225 OFF OF THE TABLE FOR FURTHER CONSIDERATION OF AMENDMENTS. MOTION CARRIED WITH SEN. JEFF WELDON VOTING NO.

Discussion: CHAIRMAN GROSFIELD explained the amendments to the committee members.

Closing by Sponsor:

SEN. HARP stated there is absolutely nothing in this Resolution that changes any of our state standards, or any of our health requirements, or any of our environmental laws. He said all this Resolution does is ask the EPA to take notice, to recognize the delays in the area of granting primacy, and for a response from the Congressional Delegation and former Sen. Yellowtail.

HEARING ON SB 347Opening Statement by Sponsor:

SEN. BILL CRISMORE, SD 41, LIBBY, said SB 347 deals with easements across state land and access onto private land. He acknowledged Western Montana has had many problems with this issue. He stated recent petitions for access across forest land have met with opposition from environmental groups, who suggest that the state is obligated not only to analyze the impact on state lands associated with the easement, but also to analyze the impact on adjacent property. SEN. CRISMORE remarked the state doesn't want to end up in court cases so they haven't been granting easements in a timely manner. He commented this bill alleviates the problem. He reported the State Lands Department will present amendments.

Proponents' Testimony:

Ronald Buentemeier, Land Manager, F.H. Stoltze Land & Lumber Company, Columbia Falls, gave a brief history of the Stoltze Sawmill and land holdings. He urged support for this legislation. EXHIBIT 4.

{Tape: 1; Side: B}

Nancy Kostman and Charlene O'Neal, Managing Partners for Montana Forest Products Limited Partnership, commented they anticipate SB 347 will take away some of the complications of trying to manage forest lands, as well as giving the state access to manage their forest lands which is an important, common sense and neighborly thing to do.

Paul Davis, Superintendent of Timberlands from Plum Creek Timber Company in Missoula, Montana stated streamlining access serves to increase the efficiency for all parties and provides an incentive to good long term forest management. He urged support for this legislation.

Bud Clinch, Commissioner, Department of State Lands, affirmed support for this bill with the amendments. He stated SB 347 will clarify some things that the department has had trouble with internally in the past and will enhance the policy and procedure in regard to easements.

Opponents' Testimony:

Debby Smith, Attorney, the Sierra Club, remarked this bill has been referred to as a common sense and good neighbor bill. She stated in opposing this bill she hoped it wouldn't make her a bad neighbor. She insisted this is another attempt to do a runaround of the MEPA process. Ms. Smith urged a do not pass vote on SB 347.

Steve Kelly, Friends of the Wild Swan, maintained this is a form of blackmail, opening up a Pandora's Box. He urged the committee to deny this request.

Questions From Committee Members and Responses:

SEN. FOSTER asked Commissioner Clinch if he was correct in assuming this just applies to state lands governed by the Department of State Lands, as opposed to Fish, Wildlife and Parks governed land. Commissioner Clinch stated he is correct and it is further delineated to refer only to the forested trust lands. He explained there are 5.2 million acres of state land of which 600,000 are forested lands, primarily west of the Continental Divide.

SEN. CHRISTIAENS asked Commissioner Clinch if he was referring to the last Land Board Act decision in his testimony. Commissioner Clinch said the bill refers to whether an entity is required to do MEPA analysis on the activities that occur on the adjacent lands as a result of their easement. He commented that this is referring to activities other than forestry activities. He explained MEPA requires analysis of the impacts of any easement or access across state land as it pertains to the impact on state land, as well as to endangered species and all the other regulatory laws that are in effect.

SEN. CHRISTIAENS questioned if the purpose of this bill was to acknowledge that the Department of State Lands has either been slow in doing this kind of thing or is hampered from doing it at all because of the location of land. Commissioner Clinch responded the department has been slow because they are addressing other issues which are of higher priority, as well as there has been some lack of understanding relative to the issues he discussed. He stated relative to the degree of analysis that is necessary regarding this idea of reciprocal access, along with the increasing need to gain permanent access to state lands, the department is going to shift priorities in how it views various easement applications.

SEN. BROOKE asked Commissioner Clinch to respond to concerns in regard to SEN. MESAROS' bill which involves private property rights. Commissioner Clinch said SEN. MESAROS' bill mandates that the department must examine impacts relative to regulating private property rights.

SEN. BROOKE questioned **Commissioner Clinch** in regard to the proposed amendments expanding the Department of State Lands activities. **SEN. BROOKE** asked if it was intentional that the word "reciprocal" on Line 11 wasn't deleted. **Commissioner Clinch** said the amendments were merely an attempt to clarify what the intent of the bill is in order to operate in concert with the way the department currently does business. He explained the department currently negotiates access agreements.

CHAIR. GROSFIELD commented one of the opponents talked about corporate extortion. He stated he was familiar with another kind of extortion, and that is government extortion, where the United States Forest Service can tie permits to the granting of reciprocal access. He gave the example of a land owner who might want a road permit, or might want a grazing permit, or a special use permit on Forest Service lands, and the Forest Service might issue it but only if it involves some kind of reciprocal access across the owner's private land. **CHAIR. GROSFIELD** said Line 11, refers to the department negotiating reciprocal accesses. He asked **Commissioner Clinch** if the department in the future may end up with this sort of extorting access in exchange for permits, much as the Forest Service does. **Commissioner Clinch** said it certainly wasn't the intent of the drafters, nor the interpretation of the department this would be used in any sort of extortion. He commented it is the department's intention to use this as another management tool to facilitate prudent management of state land, and a way of streamlining the process of service of government to the various constituencies that approach the department for right-of-way applications.

CHAIR. GROSFIELD asked **Commissioner Clinch** if Line 13 alleviates any departmental responsibilities with regard to MEPA compliance on state lands or just lands that are not state lands. **Commissioner Clinch** responded nothing in this language changes the department's existing compliance with MEPA, nor into the future. He stated the department will continue to fulfill the requirements of MEPA relative to the impacts of state land. He explained currently it has been the policy not to apply MEPA to the impacts off of state land and this merely codifies the current policy.

Closing by Sponsor:

SEN. WILLIAM CRISMORE stated this is a good bill for people that are doing business in Eastern Montana, as well as in Western Montana. He attested big companies, medium sized companies, and individuals have property rights. He said state land is important to the State of Montana, it is land that is needed to produce and take care of money for the school trust. He urged passage of this legislation.

HEARING ON SB 349

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE 2-15-95

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February 14, 1995

4.

Mr. Chairman, members of the committee, my name is Ronald BuenteSmmeier, Lands Manager for F. H. Stoltze Land & Lumber Co. at Columbia Falls, Montana. Stoltze is the oldest family owned Lumber Company in Montana with the mill at Halfmoon being established in 1923. I have been lands manager for 34,000 acres of land in Northwest Montana for the last 31 years.

Today you are considering SB347, which is concerned with granting access across State Trust Lands. As Mr. Crismore mentioned, we should all be good neighbors. Stoltze has been a good neighbor for the past 72 years in dealing with our neighboring landowners and access across our ownership. Under current Montana Law there appears to be some legal implications that the Department of State Lands feel prevents them from granting reciprocal access for Forest Management activities on forested land. Although I have dealt with MEPA from day one, I must confess I do not understand all of the legal requirements of this act. We all recognize that we must be good stewards of our forest lands, one of our most precious resources. However, current use of the MEPA process has done little for the land and much for the bureaucracy.

Much of the State Trust Lands, in the Northwest part of the State, are scattered in many locations similar to some of Stoltze ownerships. This scattered ownership makes

management of any kind, difficult at best. To have any management you must have access to your property. Because of the scattered nature, it is in everyone's best interest to be good neighbors and cooperate by granting single or reciprocal access. It is very shortsighted by either party to deny access because you will most likely pay at some point.

I have been dealing with the Department of State Lands on access for many years. We currently have 7 requests for access filed, dating back to 1989. After two months of frustration, I was able to meet with DSL at the Northwestern Land Office on December 22, to discuss the status of the various requests. Notes of this meeting, and letters I have sent to various people, including Bud Clinch and Governor Racicot, are included with my response. You will find that each request was discussed in detail. Some of the points covered were:

- 1) The Northwestern Land Office had made the decision about one year ago to concentrate on obtaining easements to State ownership and not spend time on easement request. *A good decision but shortsighted.*
- 2) Because of Grizzly Bear habitat near the valley edge, one request could not go any further unless Stoltze was willing to do and pay for a MEPA document.

- 3) Another request, near the upper end of Whitefish Lake, needed to be coordinated with a State Timber Sale. If access is granted, there will be timing and operating restrictions imposed.
- 4) A request near Beaver Lake is being delayed for several more years while DSL goes through the MEPA process. DSL has begun the process, but, initial public meetings showed that management will be very controversial and difficult in the area.
- 5) On another, Stoltze and several other private landowners encouraged DSL to improve the road locations out of a riparian area. The landowners had agreed to provide gravel on the road in the new location in exchange for everyone getting easements across State land. This would be a win situation for the resource, the State Trust Lands, private landowners, and Stoltze!!

Everyone is concerned about the quality of Land Management that is being done on our Forest Lands. Industry and private landowners have been working very hard through Best Management Practices and the Streamside Management Act to do a QUALITY land management job. The recent BMP audits show that we are doing a better job. Two audits, of Stoltze Land, show that we exceeded the requirements 6 times and met the 71 times, out of a total possible 77. Stoltze has also been recognized as doing a quality Forest Management job by other forest land owners and many private individuals.

This all shows that DSL should only concern themselves with the access across State

Trust Lands and not management on adjoining ownerships.

Because of the current course of events, Stoltze feels their only recourse ^{is} ~~in~~ to deny a current access request by State Trust Lands across Stoltze ownership. This is NOT our preferred alternative. We want to be good neighbors , and have a common sense solution to a mutual access problem. This should be a simple reciprocal easement for timber management purposes!!

Thank you for your time. Are there any questions?

Ronald H. Buentemeier

Timber & Lands Manager

RB/tc

DATE 2-15-95

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: SB-344, SB-347, SB 349
SB-386, SB-386, SB-SJR-15

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Allen Barkley	Columbia Falls Aluminum Co.	SJR15 SB 344	✓	
Allen Barkley	"	SB 349		✓
Bill Allen	MT. Audubon	SB 344		✓
DAN BITTMAN	SELF	SB 349 SB 347	✓	✓
Bill Allen	MT Audub	SB 349	✓	
J.V. Bennett	MontPIRG	SB 349	✓	
Russ Ritter	Mont. Rail Link	SB 349		✓
DOUG HARDY	SELF	-	-	-
LARRY BROWN	WME - Ag Pres. Assoc	347	✓	
Brad Griffin	MT Tire Dealers	344	✓	
Brad Griffin	MT Tire Dealers	349		✓
Larry Mitchell	Common Sense	SB 386		X
Deborah Smith	Sierra Club		SB 347	SB 347
John Youngberg	MT Grain Growers WIFE MT Farm Bureau	SB 386	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-15-95

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: SB-344, SB 347, SB 349
SB 386, SB 391, SJR-15

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Peggy Tru	WETA	SB 344 SB 347 SJ 15	✓/✓	
Peggy Tru	WETA	SB 349		✓
Paul Davis	Plum Creek	SB 347	✓	
Charlene M. O'Neil	Montana Forest Products	SB 347	✓	
Ronald Buente	F.H. Stollz Land & Lbr.	SB 347	✓	
Nancy Eastman	Montana Forest Products	SB 347	✓	
Juay Juntunen	Santa Fe Pacific Gold			
Cary Hegreberg	MT Wood Prod.	SB 347	✓	
Tom Daubert	Ash Grove Cement Co	SJ 15 SB 344	✓	
"	"	SB 349		✓
Glen Phillips	D. Fair, Wildl. & Parks			✓
GEORGE OCHENSKI	TROUT UNLIMITED	391	✓	
SARAH BARNARD	MATB	SB 344 SB 349	✓	✓
J.V. Bennett	Mont PIRG	SB 349		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Steve Kelly	Friends of the WILD SWAN	SB347		X
DAV BROWN	SOFA	SB349	✓	
Willa Hall	LWV	SB349	✓	
Ted Lange	NPRC	SB349	✓	
Ted Lange	NPRC	SB344		✓
Anne Hedges	MEIC	SB 344 SB 15		X
Anne Hedges	MEIC	SB ³⁸⁶		X
Anne Hedges	MEIC	SB349	X	
Janet Ellis	MT Audubon	SB386		X
BOB ROBINSON	DHES	386	X	
LARRY BROWN	Ag. Pres Assoc	SB 391		
MIKE MURPHY	MT WATER RES ASSN	SB391 SB386	✓	
Roger Thorvilson	MT DHES	SB344, SB386		
John Bloomquist	MT Stockgrowers	SB386 SB391	✓	✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN LORENTS GROSFIELD, on February 17,
1995, at 12:30 PM

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Jeff Weldon (D)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 365, SB 366, SB 373, SB 382, SB 406
Executive Action: SJR 15, SB 347, SB 349, SB 365, SB 373,
SB 386, SB 406

{Tape: 1; Side: A}

EXECUTIVE ACTION ON SJR 15

Motion: SEN. MIKE FOSTER MOVED AMENDMENT sjr001501.amc AS
CONTAINED IN EXHIBIT 1.

Discussion: CHAIRMAN LORENTS GROSFIELD explained the amendment
to the committee members.

Vote: MOTION PASSED UNANIMOUSLY.

Motion/Vote: SEN. LARRY TVEIT MOVED DO PASS SJR 15 AS AMENDED.
MOTION CARRIED 6-4 ON A ROLL CALL VOTE.

EXECUTIVE ACTION ON SB 347

Motion: SEN. WILLIAM CRISMORE MOVED DO PASS SB 347.

Motion: SEN. CRISMORE MOVED AMENDMENT sb034701.ate AS CONTAINED
IN EXHIBIT 2.

Discussion: SEN. CRISMORE explained the amendments to the
committee members. The amendment was striking "reciprocal"
because if one or the other land-owners didn't need access from
the other they could still have access.

SEN. JEFF WELDON said the word "reciprocal" still remains in Line
11. Todd Everts said in checking with the Department of State
Lands, they want to leave that particular "reciprocal" in and
that would now be a new Subsection 1. They also want to leave it
in the title.

SEN. VIVIAN BROOKE said that provides for reciprocal access or
for ordinary access, either way.

Vote: MOTION TO APPROVE AMENDMENT sb034701.ate CARRIED
UNANIMOUSLY.

Motion: SEN. WELDON MOVED TO APPROVE AMENDMENT sb034702.ate AS
CONTAINED IN EXHIBIT 3.

Discussion: SEN. WELDON said his amendment would strike
Subsection 2. In granting access, the department is now required
to analyze the potential impacts on private lands. Without this
amendment, MEPA analysis would be triggered on what would be
happening on state lands, but would not include the adjacent
property.

Vote: MOTION FAILED 8-1 WITH SEN. WELDON VOTING YES.

Vote: MOTION TO APPROVE SB 347 AS AMENDED CARRIED 8-1 WITH SEN.
WELDON VOTING NO.

HEARING ON SB 406

Opening Statement by Sponsor:

SENATOR LINDA NELSON, SD 49, SHERIDAN AND ROOSEVELT COUNTIES,
said SB 406 would clarify SB 196 from the 1993 session. That
bill gave the owners of underground storage tanks that were under
1,100 gallons and were noncommercial, 9 months to remove them.
Under SB 196 it was mandated that the owner had to notify the
department before the tanks were removed. They were also
supposed to notify the department if there was any leakage

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE 2-17-95

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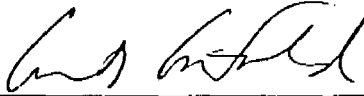
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 18, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration SB 347 (first reading copy -- white), respectfully report that SB 347 be amended as follows and as so amended do pass.

Signed: 
Senator Lorents Grosfield, Chair

That such amendments read:

1. Title, line 6.

Following: "LANDS"

Insert: "; AND DEFINING "ANALYSIS REQUIREMENTS"

2. Page 1, line 10.

Strike: "reciprocal"

Following: "access."

Insert: "(1)"

3. Page 1, line 12.

Following: "easements."

Insert: "(2)"

Strike: "reciprocal"

4. Page 1, line 14.

Strike: "reciprocal"

-END-




Amd. Coord.
Sec. of Senate

421044SC.SPV

Amendments to Senate Bill No. 347
First Reading Copy

Requested by Senator Crismore
For the Committee on Natural Resources

Prepared by Todd Everts
February 17, 1995

1. Title, line 6.

Following: "LANDS"

Insert: "; AND DEFINING 'ANALYSIS REQUIREMENTS'"

2. Page 1, line 10.

Strike: "reciprocal"

Following: "access."

Insert: "(1)"

3. Page 1, line 12.

Following: "easements."

Insert: "(2)"

Strike: "reciprocal"

4. Page 1, line 14.

Strike: "reciprocal"

Approved

SENATE NATURAL RESOURCES

EXHIBIT NO. 3

DATE 2-17-95

BILL NO. SB. 347

Amendments to Senate Bill No. 347
First Reading Copy

Requested by Senator Weldon
For the Committee on Natural Resources

Prepared by Todd Everts
February 17, 1995

1. Page 1, lines 12 through 14.
Strike: "In" on line 12 through "access." *on line 14.*

Weldon

HOUSE NATURAL RESOURCES

Page 6

BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ----- REREFERRED ---- DATE READ

SB0347	CRISMORE, WILLIAM	BOARD OF LAND COMM'RS GRANT OF RECIPROCAL ACCESS RE STATE FOREST LANDS	2/22	3/20	CONCUR AS AMENDED 3/21 VOTE: 12-6	3/22
SB0349	FOSTER, MIKE	GENERALLY REVISE COMMERCIAL HAZARDOUS WASTE PERMIT REQUIREMENTS	2/22	3/15	CONCUR AS AMENDED 3/21 VOTE: 10-7	3/22
SB0362	TVEIT, LARRY	GROUND WATER PERMIT PROVISIONS -- EXEMPTIONS	2/27	3/10	CONCUR AS AMENDED 3/13 VOTE: 12-6	3/15
SB0366	COLE, MACK	GENERALLY REVISE MONTANA MAJOR FACILITY SITING ACT	3/24	3/31	CONCUR 4/5 VOTE: 12-6	4/06
SB0371	GROSFIELD, LORENTS	OUTSTANDING RESOURCE WATERS -- CRITERIA -- LIMITATIONS	2/22	3/20	CONCUR AS AMENDED 3/21 VOTE: 12-6	3/22
SB0373	FOSTER, MIKE	METAL MINE RECLAMATION -- BONDING CRITERIA	2/22	3/15	CONCUR 3/15 VOTE: 18-0	3/16
SB0382	HARP, JOHN	REVISE CECRA, ALLOCATE RIT INTEREST, CREATE A VOLUNTARY CLEANUP PROG	3/28	3/31	CONCUR AS AMENDED 4/5 VOTE: 14-4	4/06
SB0386	DEVLIN, GERRY	EXEMPT CERTAIN NONCOMMERCIAL FARM AND RESIDENTIAL UNDERGROUND STORAGE TANKS	2/22	3/15	CONCUR AS AMENDED 3/20 VOTE: 10-8	3/21
SB0387	BECK, TOM	CLARIFY WATER RIGHTS ADJUDICATION; EXPAND THE WATER CLAIM APPEAL PROCESS	3/13	3/22	CONCUR AS AMENDED 3/22 VOTE: 18-0	3/23
SB0406	NELSON, LINDA	GRANTING CLOSURE FOR NON-COMMERCIAL 1,100 GALLONS OR LESS FOR UST	2/22	3/15	CONCUR AS AMENDED 3/20 VOTE: 15-3	3/21
SJ0002	HALLIGAN, MIKE	JOINT RESOLUTION IN SUPPORT OF NATIONAL FOREST SERVICE MUSEUM IN MISSOULA	1/14	1/20	CONCUR 1/20 VOTE: 16-2	NATURAL RESOURCES 1/23
SJ0002	HALLIGAN, MIKE	JOINT RESOLUTION IN SUPPORT OF NATIONAL FOREST SERVICE MUSEUM IN MISSOULA	1/26		CONCUR AS AMENDED 1/30 VOTE: 17-1	1/31

MINUTES

**MONTANA
54th LEGISLATURE - REGULAR SESSION
COMMITTEE ON NATURAL RESOURCES**

Call to Order: By Rep. Dick Knox, Chairman, on March 20, 1995,
at 3:00 pm.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SJR 15, SB 346, SB 347, SB 371
Executive Action: SB 386 Be Concurred In As Amended
SB 406 Be Concurred In As Amended

Tape 1, Side A

company can demonstrate through the development of site specific criteria that it does not need to achieve Gold Book numbers to protect their uses. If the company can meet the site specific standards, the limits in the permit would be modified to reflect those numbers. If the company doesn't meet the permit limits, it is subject to the penalty provisions of the law. If the company could establish that the water body was originally misclassified and should be in the "I" class, the permit limits would have to be changed to reflect the "I" class standards for water.

Closing by Sponsor:

SEN. FORRESTER SB 346 will spark progress on cleaning up the streams and urged the committee to support it without allowing a lot of amendments that would make it unworkable.

HEARING ON SB 347

Opening Statement by Sponsor:

SEN. BILL CRISMORE, Senate District 41, Libby, said SB 347 allows the Department of State Lands (DSL) to negotiate reciprocal access to facilitate the management of isolated state forest lands. The department would not be required to conduct an environmental assessment of activities on adjoining private land which may be facilitated by granting an easement across state lands. The bill is a clarification of existing DSL policies. SB 347 is needed to protect DSL from lawsuits.

Proponents' Testimony:

Cary Hegreberg, Montana Wood Products Association, said much of the forest land in western Montana is checkerboard ownership among the federal government, State of Montana, corporate landowners and nonindustrial landowners. Not only do private landowners need to secure access across state and federal lands to access their land, but the reverse is true as well. SB 347 is a good neighbor bill. It allows the state and private landowners to negotiate reciprocal access agreements without going through a lot of legal red tape.

Ronald Buentemeier, Lands Manager, F. H. Stoltze Land and Lumber Co., Columbia Falls. Written testimony. EXHIBIT 3

Tape 2, Side B

Lech Szumera, Supervisor, Access for Plum Creek Timber Company, Missoula. Written testimony. EXHIBIT 4

Robert Spokley, Landowner, Western Montana, supported SB 347.

Nancy Kostman, Montana Forest Products, Kalispell, supported SB 347.

Bud Clinch, Commissioner, Department of State Lands (DSL), said the checkerboard ownership of state land across the State of Montana creates a whole array of complexities associated with the management of it. SB 347 defines and directs the department to negotiate reciprocal access agreements between private landowners and other agencies. The Forest Service and Bureau of Land Management will also be likely candidates to enter into reciprocal access agreements with the department. In granting access, the department is not required to analyze or consider the potential impacts of activities that may occur on private or federal lands in conjunction with or as a result of granting access. There is an amendment to SB 347 that gives the Board of State Lands the authority to waive all or a portion of the survey requirements for an easement. **EXHIBIT 5**

Opponents' Testimony:

Debbie Smith, Sierra Club, said SB 347 authorizes DSL to circumvent MEPA in areas where it should be applying MEPA now. MEPA does not allow the segmentation of a project and requires a cumulative impact analysis on a reciprocal access agreement.

Jim Jensen, Montana Environmental Information Center, opposed SB 347 for the same reasons **Ms. Smith** stated.

Informational Testimony: None

Questions From Committee Members and Responses:

REP. AUBYN CURTISS asked **Mr. Clinch** if the department would still have the discretion to deny access if it perceives a problem exists even if SB 347 passes. **Mr. Clinch** said the bill states that the department may negotiate reciprocal access, which means the department will only do that when it is in the best interest of the state trust as well as the applicant. It is the department's opinion that SB 347 does not circumvent MEPA. In reviewing and making a decision on an application for easement, the department does implement the MEPA process.

REP. CLIFF TREXLER asked **Mr. Clinch** if the access problem was universal across the state. **Mr. Clinch** said the access problem is somewhat universal across the state. SB 347 is particularly for the management of isolated forest lands.

Tape 3, Side A

REP. DAVID EWER asked **Mr. Clinch** if it was true that the department doesn't consider the impacts when reviewing easement requests that may occur on properties that are not state land. **Mr. Clinch** said that was correct and that is because, in many instances, those are totally unknown activities. The magnitude of an analysis the state would have to conduct for an easement request from an oil and gas pipeline, a transmission line, or a highway project would be incredible. The decision not to

consider the impacts when reviewing easement requests is founded on the department's interpretation and reliance on the Winnebago Eighth Circuit Court Decision. **REP. EWER** asked **Mr. Clinch** if that was the way other state agencies view the consideration of impacts as far as MEPA is concerned. **Mr. Clinch** said other state agencies might have different opinions on how they are implementing and interpreting it, recognizing that each of those agencies has different roles. DSL is the lead agency in terms of being a land management agency. DSL does a MEPA analysis on the impacts that an application has on state land. **REP. EWER** said he thought it would be somewhat naive of the department not to do an impact analysis if it knows something is going to occur on a piece of property that may cause significant water degradation. **Mr. Clinch** said there might be some cases where an impact analysis may be necessary and those would be looked at on an individual basis. That is why the language in the bill states that the department may do an impact analysis.

Closing by Sponsor:

SEN. CRISMORE said he was sure that someone would want to amend section one and take out subsection (2) of the bill. If that happens, the bill may as well be thrown away because that is the bill. **SEN. CRISMORE** urged the committee to support SB 347.

HEARING ON SB 371

Opening Statement by Sponsor:

SEN. LORENTS GROSFIELD, Senate District 13, Big Timber, said SB 371 is an Act to define outstanding resource waters and set up a process for further designation of those waters. It would also identify nonsignificant activities. SB 371 is the result of SB 401 that was passed last session. The Board of Health and Environmental Sciences (BHES) went through an extensive rulemaking process and decided to adopt a rule that gives it the authority to designate outstanding resource waters. The problem is that there is no statutory authorization for that within SB 401 or anywhere else. The Environmental Protection Agency (EPA) has rules for outstanding resource waters, but in the Clean Water Act that authorizes the rules of the EPA, there is no mention of statutory authority for outstanding resource waters. SB 371 gives clear authority to the board to define and designate outstanding resource waters. The bill is purposely restrictive because once a body of water is designated as an outstanding resource water, the kinds of activities that can take place are severely limited. No authorizations to degrade the waters can be issued. **SEN. GROSFIELD** reviewed the bill with the committee.

HOUSE OF REPRESENTATIVES

Natural Resources

ROLL CALL

DATE 3-20-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Knox, Chairman	✓		
Rep. Bill Tash, Vice Chairman, Majority	✓		
Rep. Bob Raney, Vice Chairman, Minority	✓		
Rep. Aubyn Curtiss	✓		
Rep. Jon Ellingson	✓		
Rep. David Ewer	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Karl Ohs	✓		
Rep. Scott Orr	✓		
Rep. Paul Sliter	✓		
Rep. Robert Story	✓		
Rep. Jay Stovall	✓		
Rep. Emily Swanson	✓		
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Carley Tuss	✓		
Rep. Doug Wagner	✓		

Comments presented to House Natural Resources Committee concerning SB347.

March 20, 1995

Mr. Chairman, members of the committee, my name is Ronald Buentemeier, Lands Manager for F. H. Stoltze Land & Lumber Co. at Columbia Falls, Montana. Stoltze is the oldest family owned Lumber Company in Montana with the mill at Halfmoon being established in 1923. I have been lands manager for 34,000 acres of land in Northwest Montana for the last 31 years.

Today you are considering SB347, which is concerned with granting access across State Trust Lands. At the Senate committee hearing, Senator Crismore mentioned, we should all be good neighbors. Stoltze has been a good neighbor for the past 72 years in dealing with our neighboring landowners and access across our ownership. Under current Montana Law there appears to be some legal implications that the Department of State Lands feel prevents them from granting reciprocal access for Forest Management activities on forested land. We all recognize that we must be good stewards of our forest lands, one of our most precious resources. However, current procedures have done little for the land and much for the bureaucracy.

Much of the State Trust Lands, in the Northwest part of the State, are scattered in many locations similar to some of Stoltze ownerships. This scattered ownership makes management of any kind difficult at best. To have any management you must have access to your property. Because of the scattered nature, it is in everyone's best interest to be good neighbors and cooperate by granting single or reciprocal access. It is very shortsighted by either party to deny access because you will most likely pay at some point.

I have been dealing with the Department of State Lands on access for many years. We currently have 7 requests for access filed, dating back to 1989. After two months of frustration, I was able to meet with DSL at the Northwestern Land Office on December 22, to discuss the status of the various requests. Notes of this meeting, and letters I have sent to various people, including Bud Clinch and Governor Racicot, are included with my response. You will find that each request was discussed in detail. Some of the points covered were:

- 1) The Northwestern Land Office had made the decision about one year ago to concentrate on obtaining easements to State ownership and not spend time on other easement requests. They are to be praised for recognizing the importance of access to State Lands, but the decision may be short sighted.

2) Because of Grizzly Bear habitat near the valley edge , one request could not go any further unless Stoltze was willing to do and pay for the analysis required with no assurance that access would be granted.

3) Another request, near the upper end of Whitefish Lake, needed to be coordinated with a State Timber Sale. If access is granted, there will be timing and operating restrictions imposed.

4) A request near Beaver Lake is being delayed for several more years while DSL goes through the current bureaucratic process. DSL has begun the process, but, initial public meetings showed that management will be very controversial and difficult in the area.

5) On another, Stoltze and several other private landowners encouraged DSL to improve the road locations out of a riparian area. The landowners had agreed to provide gravel on the road in the new location in exchange for everyone getting easements across State land. This would be a win situation for the resource, the State Trust Lands, private landowners, and Stoltze!! Problem here is, that Stoltze must agree to do all of the leg work and pay the cost of the survey.

Everyone is concerned about the quality of Land Management that is being done on our Forest Lands. Industry and private landowners have been working very hard

through Best Management Practices and the Streamside Management Act to do a QUALITY land management job. The recent BMP audits show that we are doing a better job. Two audits, of Stoltze Land, show that we exceeded the requirements 6 times and met them 71 times, out of a total possible 77. Stoltze has also been recognized as doing a quality Forest Management job by other forest land owners and many private individuals. This all shows that DSL should only concern themselves with the access across State Trust Lands and not management on adjoining ownerships. This bill will help clarify the responsibility of the Department of State Lands and their obligation to be a good neighbor.

Because of the current course of events, Stoltze feels their only recourse is to deny a current access request by State Trust Lands across Stoltze ownership. This is NOT our preferred alternative. We want to be good neighbors , and have a common sense solution to a mutual access problem. This should be a simple reciprocal easement for timber management purposes!!

Thank you for your time. I will answer any questions at the appropriate time.

Ronald H. Buente-meier

Timber & Lands Manager

December 30, 1994

Bill O'Brien
Northwestern Land Office
Department of State Lands
2250 Hwy 93 N.
Kalispell, MT 59901

Re: Right-of-way requests to cross State Lands

Dear Bill,

On Thursday, December 22, 1994, I met with Bill Wright, Ted Giesey, and Stan Billheimer, at your office to discuss the status of our requests for access across State Land in Northwest Montana. Ted opened the meeting by explaining that your office had made the decision about one year ago that Stan would spend his time on gaining easements to Trust Lands as the priority and all other requests would have a lower priority to be worked on only as time permitted. To date nine easements have been recorded to State Land. I applauded the State for recognizing the importance of gaining access to State Land, but also pointed out the short sightedness of this decision. The State can not expect private landowners to be cooperative in granting easements to the State if requests by private landowners are being delayed or denied. Stan and Ted also mentioned that the regulations regarding granting of R/W's were changing almost daily adding to their problems.

A review of the R/W requests made by Stoltze was made.

I. Rhodes Draw

- a. Initially began in November, 1989.
- b. Road Use Permit dated July 26, 1990
- c. Letter of agreement signed October 24, 1990.
- d. Extension letter December 20, 1991.
- e. Route survey was done by Stan Billheimer and John Ulrich (Stoltze Forester) in the fall of 1990.
- f. Road built and graveled in the fall of 1990
- g. Discussions with all parties in February - March 1992 regarding exchange of easements.

- h. During 1993 contacts made with Stan regarding progress.
- i. October 1994 contacted Bill about concern with no progress on several R/W requests.
- j. November 1994 contacted Bill to set up meeting to discuss R/W's. This resulted in December 22, 1994 meeting.

Decisions on December 22, 1994 were as follows:

- 1. Stoltze will contract to have the entire route (approximately 5 miles) surveyed and plats prepared to State standards.
- 2. Stoltze will provide Bill with ownership map of watershed so he can determine proportionate shares based upon acres.
- 3. Stoltze will prepare a list of roads each party needs.
- 4. Stoltze will evaluate width of R/W needed on various roads.
- 5. Stoltze to determine, through contact with other parties, how deeds should be prepared.
- 6. Stan Billheimer will prepare another extension letter.
- 7. State will make this R/W request top priority on private list behind eight other easements to trust land.

II. Hollinberg - Birch Creek

- a. Verbal request made during August, 1993.
- b. Formal request made January 17, 1994.
- c. Ron Buentemeier and Beverly O'Brien had phone conversation May 17, 1994.
- d. Floyd McCubbins (Stoltze Forester) and Beverly met and discussed proposed route and alternate route. State is favoring the alternate route and only a temporary Road Use Permit. Permanent easement will require a MEPA document, supplied and paid for by Stoltze, and two to five years of time.
- e. There is no assurance to Stoltze that a permanent easement will ever be granted under these terms.
- f. Any easement will most likely have restrictions which will limit property ownership.

Decisions on December 22, 1994 were:

- 1. Ted will check to see if the Land Board will give preliminary approval when EA complete. Survey and documentation will then take place.
- 2. Stan will check to see if there are restrictions, can they be handled by a letter of agreement instead of in the deed.
- 3. Stoltze will be in a holding pattern until these questions are answered.

III. McLelland - Swan Lake

- a. Request sent August 9, 1994 to Glenn Gray, found out December 22, 1994 that this is on a boundary and in Bill Wright's working circle.
- b. No response until December 22, 1994.

Decisions on December 22, 1994 were:

1. Bill is writing adjacent landowners and plans to have package to Stan by February 1, 1995.
2. Stoltze will send in "new" formal request form along with survey plat and narrative.

IV. Ashley Lake Section 36:

- a. Request sent January 5, 1993.
- b. Letter from Stan January 14, 1993 informing Stoltze of needs.
- c. Stoltze sent \$50 permit fee on January 15, 1993.
- d. Road Use Permit issued September 20, 1993.
- e. Stoltze discussed with Stan the present survey that Plum Creek has on this road. It was decided that Stoltze would need to do a new survey because standards have changed and the old survey is no longer adequate.

Decisions on December 22, 1994 were:

1. Stan will again check old survey and let Stoltze know by early January how to proceed.

V. Blue Grass

- a. Stoltze sent a letter on October 1, 1993 supporting the timber sale and encouraging cooperation between all landowners to acquire permanent easements at the time the sale is made.
- b. Ron Buentemeier attended the November 15, 1993 open house to discuss the sale and again encouraged cooperation to gain permanent access.
- c. Stoltze granted the Road Use Permit requested by the state on March 18, 1994. The state was not happy that they were required to pay \$50 for the permit. Ron again stresses the need for cooperation to gain permanent access.
- d. On August 29, 1994 Beverly O'Brien responds by sending several easement applications to Ron and suggested he coordinate landowners, surveying, and documentation.
- e. Ron wrote Bill on October 23, 1994 about no mention of a permanent easement in the timber sale package.
- f. Beverly wrote Rem Kohrt (Stoltze General Manager) on November 21, 1994 updating sale progress and again encouraging Stoltze to do coordination.

Decisions on December 22, 1994 were:

1. Contact State Lands Board about R/W policy that allows the collection of R/W fees from eight owners to use the same road. This has to be "double dipping" at it's finest.
2. Ron will decide if he wants to be the "good guy" and coordinate this easement request.

VI. King Creek

- a. Prior to 1990 Ron had discussed with Tom Vars the possibilities of coming across State Land using old and new roads. Both old and new roads

- had problems so we never came to a solution.
- b. March 2, 1990 Stoltze made a formal request to use roads across State Lands.
 - c. March 6, 1990, March 20, 1990, April 17, 1990, March 4, 1992, August 4, 1992, and February 16, 1993 letters all refer to this project.
 - d. October - November 1994 phone calls from Norm Kuennen, regarding project.

Decisions on December 22, 1994 were:

- 1. Ted will get some clarification from Tom Vars. The State is reluctant to give permanent easement because activities on private land could have an impact on state land.
- 2. Ron pointed out this is the same problem that the Hollinberg - Birch Creek project has and the same comments hold true.

VII. Beaver Lake

- a. Initial request was part of the Beaver Lake response, February 24, 1993.
- b. State and county are working to clear up the R/W problem through the Keister property, which will result in a county road to State Land.
- c. There is a big conflict with local residents regarding timber harvest on State Lands, approximately 6000 acres, and management of private lands in the area.
- d. Local residents are considering zoning to limit future development and activities.

Decisions on December 22, 1994 were:

- 1. Bill is looking at an alternate route through Skyles Lake area, but it does not look feasible because of road grades and needed private R/W.
- 2. Ron will make another formal request for R/W.
- 3. The State is not optimistic that this easement will be granted soon.

VIII. Haskill Basin

- a. The State has requested, on October 5, 1994, a Road Use Permit and permanent easement for Section 16, T31N, R21W. This permit would allow them to sell 500,000 to 1,000,000 board feet of sawtimber.

Decisions on December 22, 1994 were:

- 1. Stoltze will consider the Road Use Permit and permanent easement at a later date.

Under current regulations and priority directions there are at best three of the above eight R/W requests that can be moved to completion by December 31, 1995. We realize that the interests of the School Trust Lands must be taken care of first. However, current direction is neither insuring access to trust land nor to private land.

Our company has always been a cooperator in the past and want to be a cooperator in the future. However we must insure that the company's interests are protected. We do not feel it is in the best interest of the company to continue to grant road use or right-of-ways to others without our requests being handled in a prompt and fair manner. For the above reasons we will not grant a Road Use Permit or permanent easement for the State to use our roads to gain access to Section 16, T31N, R21W at this time. We realize that the people of Montana and Stoltze are losers by this decision. Resolution of the R/W issue must be a priority issue.

Your attention is appreciated.

Sincerely yours,

Ronald Buentemeier
Timber & Lands Manager

CC: The Honorable Marc Racicot, Governor
Rem Kohrt, Stoltze Land & Lumber Co.
Bud Clinch, Director, State Office, Department of State Lands
Don Artley, Department of State Lands, Division of Forestry
Bill Wright, Department of State Lands, Kalispell Unit
Ted Giesey, Department of State Lands, Kalispell Unit
Stan Billheimer, Department of State Lands, Kalispell Unit
Glenn Gray, Department of State Lands, Swan River Unit
Tom Vars, Department of State Lands, Stillwater Unit
Cary Hegreberg, Montana Wood Products Association

RB:tk

December 29, 1994

Bud Clinch, Director
Department of State Lands
P.O. 201601
Helena, MT 59620-1601

Dear Bud,

I have enclosed a copy of a letter I have sent to Bill O'Brien, Northwestern Land Office, concerning several Right-of-Way requests we have pending. The current approach that the State is taking concerning Right-of-Ways is very short sighted. The State should be taking a proactive role in solving Right-of-Way problems. You can not manage the School Trust Lands without access. A cooperative approach will bear much more fruit.

Any help you can give in solving our joint problem will be appreciated.

Sincerely yours,

Ronald Buentemeier
Timber & Lands Manager

CC: The Honorable Marc Racicot, Governor
Encl.
RB:tk

2-11-90

MEMORANDUM

TO: Bill Schultz, Supervisor State Land Management Section, Forestry Division,
Jeanne Fairbanks, Supervisor Special Uses Section, Forestry Division

FROM: *TLG* Ted L. Giesey, Manager Forestry and Lands Programs, Northwestern Land
Office, Department of State Lands

DATE: December 22, 1994

SUBJECT: STOLTZE RIGHT-OF-WAY REQUESTS ACROSS SCHOOL TRUST LAND

Ron Buentemeier, Stoltze Land & Lumber Company met with NWLO (Bill Wright - Kalispell Unit Manager, Stan Billheimer - NWLO Real Estate Specialist, & Ted Giesey) on 22 December, 1994.

In no uncertain terms, Buentemeier pointed out that DSL needs right-of-ways from Stoltze to manage our Trust Lands (just as Stoltze needs DSL's r/w's to access their lands). He pointed out a FY 1995 Kalispell Unit timber sale (Haskill Basin) that can't be sold without Stoltze approving a permanent r/w request!

I honestly related that NWLO had prioritized work on private sector r/w's: #1) Public highways & utilities serving a lot of people, #2) Industry r/w's, #3) private driveways serving one or a few individuals. Also, I pointed out a change in NWLO's r/w program of actively working on our own permanent r/w needs to access Trust Lands. (NWLO had little activity over the past 10 years in securing permanent easements for DSL Trust Lands. As a result of this change in the past one year, DSL now has 9 easements recorded in the Flathead & Lake County Courthouses).

A second big concern raised by Stoltze was the loss of "private property rights". That is, where DSL may impose mitigation or restrictions on Stoltze's management. For example, DSL proposed stipulating seasonal closures for grizzly bears in the right-of-way deed based upon -- in Buentemeier words "self imposed standards/guidelines". However, I do believe Stoltze is willing to cooperatively work with DSL and both of us be able to reach our resource management goals by signing a separate Memorandum of Understanding regarding how we deal with Grizzly bears, hydrology, etc.

The participants went through the following Stoltze r/w applications and discussed their status:

<u>EASEMENT:</u>	<u>DATE RECEIVED:</u>	<u>LOCATION:</u>	<u>TYPE REQUEST:</u>	<u>COMMENTS:</u>
Rhodes Draw	January, 1990	S 16, T29N, R23W	Permanent r/w	Road built with road use permit. Original intention was to exchange r/ws. Some survey problems. Temporary easement needs extension.

Narrative:

Decided Stoltze needs to hire a licensed surveyor to survey 4.2 Miles of road access they need across the State section. Surveyor probably should survey the main road in Section 15, T29N, R23W for DSL's permanent access needs--NWLO will budget dollars to pay for after July 1, 1995. Wright & Buentemeier to figure and agree on tributary acres for Stoltze and Montana Forest Products, and DSL lands. (Montana Forest Products lands are under a cooperative management agreement with Stoltze). Will likely need to prepare 2 sets of applications and plats (1 set for Stoltze and Montana forest Products, 2nd set for Chuck O'Neil & Jyos).

Billheimer will begin work on this easement in early January, 1995 and get the package to the Land Board upon receiving and processing the applications and survey plats from Stoltze this winter.

<u>EASEMENT:</u>	<u>DATE RECEIVED:</u>	<u>LOCATION:</u>	<u>TYPE REQUEST:</u>	<u>COMMENTS:</u>
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Birch Creek	January, 1994	S 2 & 11, T27N, R19W	Permanent r/w	Wet Lands. Grizzly Bear Mgt. Area already part of road closures. Stoltze to do the EA.
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Narrative:

Stoltze is willing to come in from the Jewel Basin Road (from the north), and drop their southern access route request because DSL has identified water quality problems with the route. Stoltze is not willing to have grizzly bear seasonal use restriction put in a r/w deed. (Property rights infringement). Stoltze is willing to specify no spring operations (probably to July 1) and is agreeable to road closures because this is critical spring grizzly bear habitat. Stoltze would be willing to sign a Memorandum of Understanding with DSL to stipulate this. Stoltze was told they have to contract or prepare the appropriate environmental documentation (EA or EIS) to DSL standards for our approval. Stoltze may be willing to do this, but decision has to be made yet. If Stoltze completes the EA and it is DSL's decision to approve, Stoltze wants preliminary approval from the Land Board before they commit the additional dollars to hire a surveyor to survey and prepare the plat. Will the Land Board give a preliminary approval?

<u>EASEMENT:</u>	<u>DATE RECEIVED:</u>	<u>LOCATION:</u>	<u>TYPE REQUEST:</u>	<u>COMMENTS:</u>
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Swan Lake East shore	September, 1994	S 24, T26N, R19W	Permanent r/w	Needs field review. Request out to specialist for comments.
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Narrative:

This r/w appears to be routine. Survey and plats have already been completed for Stoltze. Stoltze needs to get DSL the application and plats (by early January, 1995). Wright to complete his recommendations by February 1, 1995. Billheimer to process package in February, 1995. Anticipate sending r/w to the Land Board and receiving (if approved) r/w deeds for Stoltze by May, 1995.

<u>EASEMENT:</u>	<u>DATE RECEIVED:</u>	<u>LOCATION:</u>	<u>TYPE REQUEST:</u>	<u>COMMENTS:</u>
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Whites Basin	August 9, 1994	S 16, T27N, R21W	Road Use Permit	Kalispell Unit completed package and sent it to LO 10/14/94.
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Narrative:

Whites Basin Road Use Permit issued by NWLO to Stoltze on October 25, 1994.

EASEMENT: DATE RECEIVED: LOCATION: TYPE REQUEST: COMMENTS:

King Creek	March 2, 1990	S 29, T32N, R22W	Road Use Permit	Stoltze (McCubbins) anticipated r/w needed in 1997 (moved up to 1994).
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Narrative:

DSL must still bring the newly constructed King Creek Road up to finish standards (anticipate American Timbers completion during the summer of 1995). DSL would then be able to grant Stoltze Land & Lumber Company a temporary road use permit.

EASEMENT: DATE RECEIVED: LOCATION: TYPE REQUEST: COMMENTS:

Beaver Lake	February 29, 1994	S 20, T31N, R22W	?	R/W requested 2/24/94 by Stoltze. Stillwater Unit does not have any record of this application--please send copy.
-------------	-------------------	------------------	---	---

Narrative:

At present, DSL does not have a legal right-of-way into Beaver Lake. Therefore, DSL cannot grant any permanent or temporary easements to the private lands behind State ownership.

If and when DSL gains permanent easement, then we will suggest all interested parties (seven or more have expressed r/w interest) act together and share in the costs. Costs include preparing a environmental analyses or environmental impact statement, and also survey costs for the various road segments.

cc: Cal. File
 Stoltze Land & Lumber Company
 Bill O'Brien
 Stan Billheimer
 Kalispell Unit
 Stillwater Unit

DEPARTMENT OF STATE LANDS

FIELD OPERATIONS DIVISION



MARC RACICOT, GOVERNOR

STATE OF MONTANA

NORTHWESTERN LAND OFFICE
P.O. BOX 7098
KALISPELL, MT 59904-0098

Telephone: (406) 752-7994
FAX: (406) 752-7993

January 6, 1995

Ronald Buentemeier
Timber & Lands Manager
F. H. Stoltze Land & Lumber Co.
P.O. Box 1429
Columbia Falls, MT 59912

Dear Ron:

Thank you for your letter of December 30, 1994, regarding Stoltze's right-of-way requests to cross State trust lands.

I certainly appreciate your frustration at the apparent lack of progress in processing the rights-of-ways you have requested. We too are frustrated and disappointed that we have not been able to provide better service in this area of responsibility.

I understand the need for all major forest landowners to cooperate on providing access to each other. As you know, we have placed top priority on providing temporary access for timber harvest. You have pointed out, however, our progress on your requests for permanent access has been very slow. We have found it difficult to address access needs to trust land, along with the needs of other landowners. Our resources in this area have been essentially fixed, while the demand has escalated rapidly for both private sector and school trust right-of-way needs. Your patience up to now is appreciated.

With two exceptions, your letter is an accurate summation of the situation to date and actions both parties feel can be accomplished in the next couple of years.

The first exception is Rhodes Draw. You state it is behind eight other easements to school trust lands. In fact, Rhodes Draw is the fourth right-of-way on the overall list. I have had Ted provide the following priority listing of all Northwestern Land Office right-of-ways in progress:

- | | |
|---------------------------------|------------------|
| 1. Van Derhoff | (Private Sector) |
| 2. Van Derhoff | (Trust Lands) |
| 3. Stoltze-McLelland-Swan (III) | (Private Sector) |
| 4. Stoltze-Rhodes Draw (I) | (Private Sector) |
| 5. Stoltze-Rhodes Draw | (Trust Lands) |

KALISPELL UNIT
P. O. Box 7098
Kalispell, Montana 59904-0098
Telephone (406) 756-6575
Fax (406) 752-7993

STILLWATER STATE FOREST
P. O. Box 164
Olney, Montana 59927
Telephone (406) 881-2371
Fax (406) 881-2372

LIBBY UNIT
14096 U.S. Highway 37
Libby, Montana 59923
Telephone (406) 293-2711
Fax (406) 293-6748

PLAINS UNIT
P. O. Box 219
Plains, Montana 59859
Telephone (406) 826-3851
Fax (406) 826-5785

SWAN STATE FOREST
Swan Lake, Montana 59911
Telephone (406) 754-2301
Fax (406) 754-2884

Ronald Buentemeier Letter

January 6, 1995

Page 2

6. Montana Power Co.	(Private Sector)
7. Keister	(Trust Lands)
8. Cadenhead	(Private Sector)
9. NEWCO International	(Private Sector)
10. Marquardt	(Trust Lands)
11. Beller	(Trust Lands)
12. Stoltze-Hollinverg Birch Creek (II)	(Private Sector)
13. Owen-Hurst Leasing	(Private Sector)
14. Confederated Salish Kootenai Tribes	(Private Sector)
15. Confederated Salish Kootenai Tribes-Selow T.S.	(Trust Lands)
16. Kiser	(Trust Lands)
17. Hewitt/Tilton	(Trust Lands)
18. Nelson	(Private Sector)
19. Montana Dept. of Transportation-Lion Springs	(Private Sector)
20. Eslick	(Private Lands)
21. Johnson	(Trust Lands)
22. Micklon (two easements)	(Private Sector)
23. Kootenai N.F. (two easements)	(Private Sector)
24. McFeely	(Private Sector)
25. Mary B. Subdivision	(Private Sector)
26. Montana Dept. of Transportation-Foy's Canyon	(Private Sector)

(Roman numerals refer to those in your letter.)

The second exception is that no formal applications for easement across Blue Grass Ridge (Section 36, T29N, R23W) and Beaver Lake (Section 20, T31N, R22W) have been received, but we are aware of your desire to obtain these rights-of-ways. At the Blue Grass Ridge open house, we told all the adjacent landowners present that it was in their best interest to coordinate and share in the right-of-way survey. DSL is available to provide information on easement requirements, but we do not feel it is our responsibility to coordinate this effort for private landowners.

Roman Numerals IV Stoltze-Ashley 36, V Stoltze-Blue Grass, VI Stoltze-King Creek, and VII Stoltze Beaver Lake will be added to the list and prioritized as pending questions are cleared up and applications and plats (as determined to be required) are submitted. As soon as you provide DSL with the Swan and Rhodes Draw survey plats and applications, processing of these easements will begin.

You should also be aware that the priority action list is subject to revision quarterly to semi-annually as the steady stream of right-of-ways applications come in. Applications from public utilities and highways generally have a higher priority than private or trust land needs.

I have asked Ted to give me a quarterly update on the progress of Stoltze's outstanding requests. I have also asked that he contact you in three months time to review progress with you and update the "action

Ronald Buentemeier Letter
January 6, 1995
Page 3

plan" as necessary. In this way, I feel we can establish and maintain reasonable progress and good communications.

I am committed to completing the priorities as outlined in your letter where DSL has the applications and plats and am hopeful that you will grant us the permanent easement needed for the Haskill sale.

Sincerely,



William E. O'Brien
Area Manager
Northwestern Land Office
Department of State Lands

cc: Commissioner Clinch
Don Artley
Governor Mark Racicot

DEPARTMENT OF STATE LANDS

FEB 2 1995

Picav return -

Ben



MARC RACICOT, GOVERNOR

P.O. BOX 201601

STATE OF MONTANA

(406) 444-2074

1625 ELEVENTH AVENUE
HELENA, MONTANA 59620-1601

January 31, 1995

Ron Buentemeier
Stoltze Land & Lumber Co.
Box 1429
Columbia Falls, MT 59912

Dear Ron:

First, my apology for such a delay in response to your December 29th letter. Ever since January 1st with the legislature in town, life has been at a dog trot

As I understand it, the Department has been less than responsive to your requests for easements. Recognizing that I can certainly understand your decision to not grant DSL's request for access to section 16 T31N R21W. In fact such action may well be what it takes to bring this issue to a head. As you may well know, similar situation exists with Plum Creek Timber as well.

It is certainly my intention and direction to staff that we must be fair in both our requests and action on others requests. Requesting easements for our use but acting unfavorable on reciprocal requests is an unacceptable approach under this administration. As you may well know, our guiding parameters revolve around our "trust" responsibilities. While we are obligated to protect our current and future trust options, such an approach should not preclude reasonable cooperation among interested parties.

This issue of easements is becoming a higher profile topic across all our lands. Consequently the Department needs to adopt some comprehensive guidelines to address this increasing controversy. In addition to action on your requests, I assure you that the Department will keep you apprised of any development of easement guidelines. As you may know, at least one bill is pending before the 1995 legislature addressing the Department's responsibilities in considering right-of-way requests.

Ron Buentemeier
January 31, 1995
Page Two

Thank you for alerting me of your concerns. I'll do my best to untangle the web.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bud", written in dark ink.

Arthur R. Clinch, Commissioner
Department of State Lands

jc

c: Bill O'Brien
Cary Hegreberg, MWPA
Governor Marc Racicot

APPLICATIONS FOR RIGHTS-OF-WAY ON STATE LAND

All agencies or persons interested in putting a project on School Trust Lands should contact the area office that handles the county in which the request is made. Contact with the area or unit office should be made before an actual survey is done. After an on-site inspection, the Area Manager will consider whether the project is in the best interest of the trust. If there are no problems, a survey may be conducted and formal application may be made. All easement applications should be sent to the prospective area offices for review. Attached is a listing of area offices and the counties they manage.

Application

1. An original and one copy of the completed application.
2. An original and one copy (or two copies) of the plat or survey.
3. A statement signed by the State Surface Lessee which indicates they have made arrangements for compensation for leasehold damages, if any.
4. A completed Department questionnaire must accompany the application.
5. A non-refundable \$50.00 application fee must accompany the application when submitted, before any processing will begin.
6. The application must be signed in a manner which reflects the name of applicant as you wish it to appear on the easement right-of-way deed.

Survey Requirements

1. The survey must be prepared by a licensed surveyor or a certified engineer.
2. The legal subdivision or metes and bounds description must appear either on the survey or at the top of the reverse side of the easement application. The surveyor need sign only the survey plat. It is not necessary for that person to sign in the survey space on the application if the plat is signed.
3. Immediately above the signature are spaces to indicate the acreage requested from each 40-acre subdivision or government lot.

4. If the application is being made for a road or utility right-of-way, the survey is normally a metes and bounds centerline description.
5. If the requested right of way will cross more than one section of trust land, the survey may include all State tracts on one survey, However, this is not applicable to the application. A separate legal description and application must be made for each section of land on which the application is made. (Separate records are kept in our files on each section, and a separate deed is issued for each section.)

Charges

1. Charges for the easement or acreage known as the taking will be based on the market value of the parcel the easement crosses. If the State parcel is appraised at \$500 per acre, the acreage identified in the easement will be based on the \$500 per acre. Example: if the easement area is one acre, the fee charged for the easement will be one acre x \$500, or \$500.
2. If the easement request includes an existing road, a fee for a share of the value of the road will be assessed in addition to the land value.
3. Before the State sells an easement, the Surface Lessee is given the opportunity to be compensated for any damages to Department-approved leasehold interests, such as but not limited to roads, crops, summer fallow, forage, water developments, buildings and fences.

Easement Deed

1. The State will retain the right to sell minerals, other non-conflicting uses, and to sell additional right-of-way easements.
2. After the Land Board has approved the right-of-way request, a bill and a draft deed will be sent to you.
3. After the Department has received payment for the right-of-way, a deed will be issued to you.

Processing and Timeframes

A right-of-way application can take up to 12 months to process. Please contact the area or unit office in the area of your proposed project regarding timeframes for your easement request.

EASEMENT REQUEST QUESTIONNAIRE

Please complete this form and attach it to your application.

Legal Description of property intended for access.

Section _____ Township _____ Range _____ # of acres _____

When was the property purchased?

What was the purchase price?

State the need or necessity of the easement request.

List alternative means of access and reasons why the alternative route is not acceptable.

State the intended use of road (i.e., private, non-commercial, subdivision, number of lots accessed, timber management, agricultural etc.

State if utilities will be included in the easement. _____

If so, indicate the types; i.e., overhead, underground, telephone, power, cable T.V. and/or other, including locations and widths.

State if the easement request involves an existing road or if new construction is necessary.

Attach map of area indicating private ownership and state ownership.

APPLICATION FOR RIGHT OF WAY EASEMENT IN STATE LANDS

(Application Fee -- \$50.00)

The best method of describing the land needed for the right of way in all such cases is to describe the centerline and give the width on each side.

Please locate the starting point of the proposed right of way by giving its distance and bearing from the nearest public survey monument in the same section; then give the bearing and distance of each course of the line; and locate the terminus in the same manner as the starting point; whenever the line intersects a quarter section line, locate the point of intersection in the same manner also.

The description given in the application will be copied into the right of way deed. It must be so definite and complete that from it the right of way may readily be located upon the ground without the plat.

If the right of way runs through an intervening tract which is *not state land*, it may be shown on the tracing or plat, but *must not* be included in the description in the application as this might result in errors in writing the deed.

No application should include land in more than one section. Show the acreage required for the right of way in each forty-acre tract of *State land* in the place provided in this blank.

The application must be signed by or for the applicant, and certified correct by the endorsement of the engineer. *Write the name of the applicant exactly the way it is to appear in the deed.*

TRACING OR PLAT. Tracings or plats must accompany the application. These tracings or plats should be so plain that anyone can readily ascertain the section, township and range and see what forty-acre tracts the right of way runs through. A scale of 1 inch to 400 feet is commonly used.

There must be two copies of the tracing or plat duly verified by the affidavit of the land surveyor who has prepared the same endorsed thereon. They must show the "quantity of land taken by the proposed highway or street or other easement from each forty-acre tract or government lot of State land over or through which it passes and also the amount of land remaining in each portion of such forty-acre tract or government lot." (Part of Section 77-2-102(2) Montana Code Annotated)

For the sake of reference other than State lands may be shown on the plat, but they should be indicated by different colors. *If the proposed right of way follows a river or railroad right of way or other right of way, such river or right of way should be shown and also the area of the intervening strip, if any.*

The affidavit of the surveyor or engineer to be endorsed on the *tracing or plat* should be substantially in the following form:

STATE OF MONTANA,

SS.

County of _____

_____, being duly sworn says: That he is the _____ who made the survey of the right of way shown hereon; that the survey was correctly and accurately made; that the tracing or plat thereof is true and accurate and that it correctly shows the quantity of land required for the right of way in each forty-acre tract or government lot and also the amount of land remaining in each portion of such forty-acre tract or government lot.

Subscribed and sworn to before me this _____ day of _____, 19 _____

Notary Public for the State of Montana

Residing at _____
My Commission Expires _____

Montana, _____, 19 _____

To the State Board of Land Commissioners
State of Montana
Helena, Montana:

Application is hereby made under the provisions of Section 77-2-101 through Section 77-2-107 of the Montana Codes Annotated, 1979, and Acts amendatory thereto by _____

February 15, 1995

Senate Bill 347

Mr. Chairman, members of the committee, I am Lech Szumera from Missoula, MT, and would like to testify on Senate Bill 347. I am the Supervisor of Access for Plum Creek Timber Company. In addition to harvest and reforestation planning for company lands, I am responsible for acquiring access for our lands as well as granting access to our neighbors.

Generally, dealing with access issues is not particularly time consuming. We typically grant access to private parties, ranchers, or even competing businesses, in a matter of weeks. Other private interests reciprocate with access to us in approximately the same time frames. However, this does not hold true when dealing with the Department of State Lands. Even the most straightforward access request often takes the better part of a year, and sometimes much longer.

Not obtaining access, by the State, or other parties, has several consequences. Foremost among these is that accessed land has a significantly higher market value than unaccessed land. By not having ready access to all lands, the State is forced to concentrate activities on a smaller land base rather than dispersing actions over a wider area. The lack of access also provides a temptation to reduce investment in timber stand improvement activities - such as precommercial thinning - making them less productive and exposing them to risk of loss from insects or disease. Uneven age timber management also becomes less attractive. After all, why take the risk of leaving significant numbers of large trees on site as part of a harvesting prescription when they may not be available in the future? Finally, approval of this bill would require less manpower to process access needs.



Streamlining access serves to increase the efficiency of all parties, and provides an incentive to good, long-term land management. Therefore, Plum Creek supports this legislation..



Examples:

Boles Cr. - Originally requested by PC in 9/93.

Denied due to "restrictions of DSL options"

Not really sure why. Cumulative effects?

Requested that PC do Biological Assessment for S. 36

Wanted to meet to approve PC approach on S.1

Crystal Cr. - Took 1 to 1.5 years.

Swan State Forest - Deny PC access due to conflicts with G-Bear BMA's.

Private we have granted:

Marjus, Fish Cr. - 3 weeks.

ITT - 3 to 4 weeks.

EXHIBIT 5
DATE 3-20-95
SB 347

AMENDMENTS TO
SB 347
(Third Reading Copy)

1. Page 1, line 12.
Following: "easements"
Insert: "For an easement granted pursuant to this subsection, the board may waive all or a portion of the survey requirements of 77-2-102, subject to any conditions the board may impose."

-End-

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Natural Resources COMMITTEE BILL NO. SB 347
 DATE 3-20-95 SPONSOR(S) Senator Cusumano

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
LECH SZUMERA 140 N. Russell, Missoula, MT	Plum Creek Timber Co.	SB 347		X
Bud Clinch	DSL	347		X
Peggy Thew	WETA	347		X
Deborah Smith	Silva Club	347	X	
Ronald Bruntmeier	F.H. Stollz's Land & Lb	347		X
Nancy E. Kosman	Montana Forest Products	347		X
Cary Hegreberg	MT Wood Prod. Assoc.	347		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
 ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

**MONTANA
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Rep. Dick Knox, Chairman, on March 21, 1995,
at 3:00 pm.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: Rep. David Ewer (D)
Rep. Cliff Trexler (R)

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None

Executive Action: SB 331 Be Concurred In As Amended
SB 346 Be Concurred In As Amended
SB 347 Be Concurred In As Amended
SJR 15 Be Concurred In
SB 349 Be Concurred In As Amended
SB 371 Be Concurred In As Amended
SB 330 Postponed Until 3-22-95

Tape 1, Side A

EXECUTIVE ACTION ON SB 347

Motion: REP. PAUL SLITER MOVED SB 347 BE CONCURRED IN.

Motion/Vote: REP. BILL TASH MOVED AMENDMENTS TO SB 347. EXHIBIT 4 Voice vote was taken. Motion carried 17 to 1. REP. CLIFF TREXLER voted no.

Tape 1, Side B

Discussion:

REP. RANEY said he didn't think section 1, subsection 2 was needed in the bill. The language seems to discourage the Department of State Lands (DSL) from analyzing potential impacts of activities that may occur on private and federal lands that adjoin state lands.

REP. ROBERT STORY said it bothered him when state processes are used to control what someone does on their privately-owned land. The department has said that it will analyze potential impacts of activities if it believes it warrants it.

Motion: REP. STORY MOVED SB 347 BE CONCURRED IN AS AMENDED.

Discussion:

REP. SLITER said the bill is just a clarification of the department's current policy.

REP. HAL HARPER said any state action that may have a significant impact requires an analysis by the department. The department should not be discouraged from analyzing potential impacts.

Motion: REP. HARPER MOVED AN AMENDMENT TO SB 347 TO STRIKE THE WORDS "IS NOT REQUIRED TO ANALYZE OR" AND INSERT "MAY" ON PAGE 1, LINE 13.

Discussion:

REP. AUBYN CURTISS said she didn't agree with the amendment. Section 2 is primarily what the bill is about.

REP. TASH said he disagreed with the amendment because having to analyze potential impacts of activities on private and federal lands would complicate the department's procedure of granting access.

REP. RANEY gave an example of land in the Crazy Mountains that was privately-owned and was isolated with no access. The owner obtained a reciprocal agreement access and repaired the road so the Forest Service could get in. Then the owner turned it into a major development. The wonderful wilderness area suddenly became a developed site. REP. RANEY said in his opinion, the citizens

wouldn't have wanted reciprocal access granted to provide for the development of that land. The state should analyze what might happen on a section of land.

REP. LILA TAYLOR disagreed with the amendment because it would discourage reciprocal access agreements.

REP. SLITER said the language that REP. HARPER wants to strike is what protects the department from a lawsuit that would allege that it has an obligation to analyze potential impacts on adjoining land. It is because of the threat of lawsuits that the department is reluctant to grant reciprocal access agreements.

REP. HARPER said the Department of State Lands is not noted in the title of the bill. If it is the department's bill, it should have its name on the bill. Private land owners and the public have the right to know if potential impacts might occur.

Vote: Voice vote was taken. Motion on REP. HARPER's failed 12 to 6. REP. RANEY, REP. HARPER, REP. DAVID EWER, REP. CARLEY TUSS, REP. EMILY SWANSON and REP. JON ELLINGSON voted yes.

Vote: Voice vote was taken. Motion that SB 347 Be Concurred In As Amended by REP. TASH's amendment carried 12 to 6. REP. RANEY, REP. HARPER, REP. EWER, REP. TUSS, REP. SWANSON and REP. ELLINGSON voted no.

EXECUTIVE ACTION ON SJR 15

Motion/Vote: REP. DANIEL FUCHS MOVED SJR 15 BE CONCURRED IN. Voice vote was taken. Motion carried 12 to 6. REP. BOB RANEY, REP. HAL HARPER, REP. DAVID EWER, REP. CARLEY TUSS, REP. EMILY SWANSON and REP. JON ELLINGSON voted no.

EXECUTIVE ACTION ON SB 349

Motion: REP. AUBYN CURTISS MOVED SB 349 BE CONCURRED IN.

Motion: REP. CARLEY TUSS MOVED AN AMENDMENT TO STRIKE "HEAVY METALS" THROUGHOUT THE BILL.

Discussion:

REP. TUSS said the reason for the amendment is that in incineration, heavy metals cannot be created.

REP. SCOTT ORR supported REP. TUSS's amendment.

REP. JON ELLINGSON said maybe heavy metals couldn't be created, but thought there was a possibility that during the incineration

HOUSE OF REPRESENTATIVES

Natural Resources

ROLL CALL

DATE 3-21-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Knox, Chairman	✓		
Rep. Bill Tash, Vice Chairman, Majority	✓		
Rep. Bob Raney, Vice Chairman, Minority	✓		
Rep. Aubyn Curtiss	✓		
Rep. Jon Ellingson	✓		
Rep. David Ewer			✓
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Karl Ohs	✓		
Rep. Scott Orr	✓		
Rep. Paul Sliter	✓		
Rep. Robert Story	✓		
Rep. Jay Stovall	✓		
Rep. Emily Swanson	✓		
Rep. Lila Taylor	✓		
Rep. Cliff Trexler			✓
Rep. Carley Tuss	✓		
Rep. Doug Wagner	✓		



HOUSE STANDING COMMITTEE REPORT

March 22, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 347 (third reading copy -- blue) be concurred in as amended.

Signed: _____

Dick Knox
Dick Knox, Chair

And, that such amendments read:

Carried by: Rep. Sliter

1. Title, line 6.

Following: "i."

Insert: "ALLOWING THE BOARD TO WAIVE SURVEY REQUIREMENTS; "

2. Page 1, line 12.

Following: "easements."

Insert: "For an easement granted pursuant to this subsection, the board may waive all or a portion of the survey requirements of 77-2-102, subject to any conditions that the board may impose."

-END-

Committee Vote:

Yes 12, No 6

661021SC.Hdh

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE 3-21-94

I request to be excused from the Not Res.
Committee meeting this date because of other commitments. I desire
to leave my proxy vote with _____.

Indicate Bill Number and your vote Aye or No. If there are
amendments, list them by name and number under the bill and
indicate a separate vote for each amendment.

HOUSE ^{Senate} BILL/AMENDMENT	AYE	NO
SB 371 - Story Amend.	✓	
SB 371 - Raney ^{#2} Amend.	✓	
SB 371 - Raney ^{#3}		✓
SB 371 - Harper	✓	
SB 371 - Wagner	✓	
SB 371	✓	
SB 330 ^(Gov) - Ohs Amend.		

SENATE BILL/AMENDMENT	AYE	NO
331 - tech. amendments	✓	
331 - Beck amendments	✓	
SB 331	✓	
346 - Harper Amend.	✓	
SB 346	✓	
SB 347 - Amendment?		✓
SB 347 - Harper Amend.		✓
SB 347	✓	
SJR	✓	
SB 349 - Tuss Amend.	✓	
SB 349 - Orr Amend.		✓

SB 349

Rep. Cliff Drusler
(Signature)

EXHIBIT 4

DATE 3-21-95

SB 347

Amendments to Senate Bill No. 347
Third Reading Copy

Requested by the Department of State Lands
For the Committee on Natural Resources

Prepared by Martha Colhoun
March 21, 1995

1. Title, line 6.

Following: "i"

Insert: "ALLOWING THE BOARD TO WAIVE SURVEY REQUIREMENTS; "

2. Page 1, line 12.

Following: "easements."

Insert: "For an easement granted pursuant to this subsection, the board may waive all or a portion of the survey requirements of 77-2-102, subject to any conditions that the board may impose."